activated by monitoring the assigned EAS sources.[194] In order to clarify how EAS monitoring assignments are determined, we amend this section to add the following to the end of section 11.53(c): "as specified in their State or Local plan."[195] Finally, because section 76.305 no longer exists, the reference to that section in 11.54(b)(13) is changed to the correct reference: section 76.1711.[196]

H. Conclusion

60. We expand the reach of EAS, as currently constituted, to ensure that more Americans are able to receive national and/or regional public alerts and warnings. Digital technologies are rapidly becoming the norm for communications technologies and public alert and warning must keep pace with this digital revolution. Government and industry are engaged in the early stages of efforts to develop a fully integrated, state of the art, digitally-based public alert and warning system for the American public. Increasingly popular digital technologies must have the ability to deliver some level of basic national or regional warning now, during the time that more sophisticated alert and warning systems are being developed. Further, we amend our EAS rules to ensure that persons with disabilities have equal access to public warnings.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

61. In the *Order* we adopt today, we realize the immediate objective of ensuring that the large and growing segments of the population who rely on digital radio and television technologies are not left without access to alerts in the event of an emergency. While the current EAS performs a critical function, we believe it could be improved. In this *Further Notice of Proposed Rulemaking (FNPRM)*, we seek specific comments on what actions the Commission should take to help expedite the development of a more comprehensive system.

62. An accurate, wide-reaching public alert and warning system is critical to the public safety and a vital part of the Commission's core mission to promote the safety of life and property through a robust communications system. We should have a system that enables officials at the national, state and local levels to reach affected citizens in the most effective and efficient manner possible. It should have built-in redundancy features and use a variety of communications media so that officials can reach large numbers of people simultaneously.

63. Today's order is our first step to ensure that digital media is capable of receiving and disseminating EAS messages. We note that, in response to the *EAS NPRM*, commenters identified a number of approaches to digital alert and warning. We seek further comment on these approaches and ask what the Commission can do to facilitate the development of a more effective, comprehensive digital public alert and warning system. Specifically, what is the appropriate role for the Commission among the various government and industry entities that are involved in the creation of this system? We also seek comment on the Commission's statutory authority to regulate such a system. If a new system is adopted, should compliance be mandatory or voluntary? Should different communications technology – radio, television, wireline, wireless – be treated differently?

64. As noted in the *Order* that accompanies this *FNRPM,* government and industry have taken significant steps to develop a next-generation alert and warning system. Digital media have the potential to deliver a wholly new level of alert and warning capabilities, far beyond the capabilities of today's EAS. Text crawls and audio feeds can be replaced with full audio and video alert, information such as evacuation routes can be embedded in messages to the public, messages can be targeted to specialized audiences such as first responders and health care providers, and coordinated warnings can be sent over multiple platforms simultaneously.

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[194] *See* 47 C.F.R. § 11.53(c).

[195] *See infra* Appendix B, 47 C.F.R. § 11.53(c).

[196] *See infra* Appendix B, 47 C.F.R. § 11.54(b)(13); *see also* 47 C.F.R. § 76.1711.

65. The comments filed in response to the *EAS NPRM* reveal a multitude of technical approaches to a digital alert and warning system, from specific approaches to individual technologies to broad approaches to architecture and protocol design. Below we include a representative sample of issues for parties to address. The issues we include are representative, and do not constitute an exclusive list. Parties can – and should – comment on any next generation issues. In their comments, parties should consider what role the Commission should play in facilitating choice among these options. Are some more workable than others? Are some unworkable, either intrinsically or because they would not fit well in a system that must accommodate multiple communications platforms?

66. *System architecture/message distribution.* Some commenters argue that the current distribution system is flawed, and that EAS messages should be distributed directly to media outlets.[197] We seek comment on this assertion. Would such point-to-multi-point distribution deliver alerts more quickly to the public? Would it do so more efficiently? Many commenters, such as WTOP/WXTR, propose that a satellite-based system be used.[198] Would such a system be effective? Should it be deployed in addition to[199] or instead of the current system? APTS proposes that the PBS satellite system offers a model for distribution of national or state and local alerts.[200] We seek comment on the APTS proposal. We note that the PBS satellite system is an integral part of FEMA's Digital Emergency Alert System (DEAS) National Capital Region Pilot, and we expect to incorporate the results of that pilot into our record. We also seek comment on other distribution models. For example, given its inherent robustness, we believe the Internet should serve an important role in distribution of alerts and warnings.

67. *Common protocols.* The National Center for Missing & Exploited Children (NCMEC) argues that emergency alerts should flow rapidly and simultaneously through all available information conduits to first responders and the public.[201] Should such a ubiquitous distribution be a goal of a digitally-based alert system? Most commenters agree that in order for a digitally-based alert and warning system to be distributed simultaneously over multiple platforms, a common messaging protocol must be adopted.[202] We seek comment on this assertion. SWN Communications, Inc. contends that the Common Alerting Protocol (CAP), endorsed by the PPW and many public and private organizations responsible for alerts, offers the most practical means of quickly creating an effective interface between the emergency manager and multiple emergency alert and notification systems to significantly improve national alert and warning capability.[203] Should CAP be adopted as the common messaging protocol for any future digitally-based alert system? Should we require the adoption of CAP for EAS alerts? If CAP were to be adopted, would it allow simultaneous distribution to radio, television, and wireless media such as mobile telephones and PDAs? How would CAP be used to ensure uniformity of alerts across such multiple platforms? For example, if the White House were to issue a national message how would CAP accommodate an audio message with a shorter, text-based message appropriate for a PDA screen?

68. *Issues specific to particular technologies.* We also seek comment on issues in the

[197] *See e.g.*, Liberty Comments at 1.

[198] WTOP/WXTR Comments at 9-10.

[199] *See e.g.*, Cox Comments at 2-3 (current EAS infrastructure is a product of years of development and provides an excellent framework for transmitting EAS alerts to the pubic. The current system should be improved while taking advantage of technological advances).

[200] Association of Public Television Stations (APTS) Comments at 5-6.

[201] National Center for Missing & Exploited Children (NCMEC) Comments at 11.

[202] LogicaCMG plc (LogicaCMG) Comments at 15; NAB/MSTV Comments at 15-16; National Association of State Chief Information Officers (NASCIO) Comments at 3-4; RERC Comments at 9; SWN Communications, Inc. (SWN) Comments at 2; Timm Comments at 7; Trilithic, Inc. (Trilithic) Comments at 4; Cellular Emergency Alert Systems Association (CEASA) Reply Comments at 3-4.

[203] SWN Comments at 2.

comments that relate to specific technologies. For example, we seek comment on assertions by Echostar, Sirius and XM that DTH and SDARS providers should not be required to deliver state and local messages.[204] As we note in today's *Order*, because most EAS alerts are local, the ability to deliver a state or local message is an essential element of an effective alert and warning system. We seek comment on how technologies like DTH and SDARS, which are designed to receive and deliver national programming, could deliver local alerts. For example, should DTH providers design the capability into their transmission systems and their next generation digital set top boxes to deliver state and local EAS alerts to only the appropriate state and local audiences? We also seek comment on technical solutions that would allow SDARS providers to efficiently deliver state and local alerts and ask whether we should require all digital radio services (whether SDARS or DAB) to broadcast warnings over the digital displays on receivers. Finally, we seek comment on whether the Commission should adopt weekly test transmission requirements for DBS providers and, if so, what those requirements should be.

69. Wireless products are becoming an equal to television and radio as an avenue to reach the American public quickly and efficiently. We note the participation of the wireless industry in FEMA's current IPAWS pilot projects, which are discussed below. What further steps should the Commission take to facilitate wireless provision of alert and warning? Should the Commission require wireless carriers to provide alerts and warnings? We note that many commenters in the underlying proceeding have advocated a point-to-multi-point, or cell broadcast approach to wireless alert and warning.[205] In addition, commenters have identified technologies that enable wireless handsets to receive EAS alerts.[206] We seek comment on these and other approaches to wireless alert and warning. Parties should address whether each approach permits use of a common messaging protocol. Finally, we seek comment on whether each approach would require customers to return and replace their current handsets and, if so, whether any financial impact of handset return would offset the public benefit of providing wireless alert and warning? Parties should address economic as well as technical issues in their comments.

70. Finally, traditional telephone companies recently have indicated that they plan to compete with cable television service providers and DTV broadcasters in bringing high definition digital content to customers' homes through fiber optic connections.[207] Under these circumstances, should telephone companies have public alert and warning responsibilities similar to those of the other news and entertainment providers covered in this docket? Are there particular attributes of wireline technology that would make it easier to deliver alert and warning to the public? Are there attributes that do not lend themselves to the provision of alert and warning? Are there policy considerations the Commission should consider regarding requiring telephone companies that provide content also to provide alert and warning?

71. *Government Efforts To Develop Digital Warning System.* The Congressional Research Service (CRS) published a report titled, "Emergency Communications: The Emergency Alert System (EAS) and All-Hazard Warnings."[208] In the report, CRS noted many of the same government efforts to develop a digital warning system as discussed in the *EAS NPRM*, about which comments were filed in the record. Specifically, CRS discussed the ongoing pilot projects of FEMA, the Information Analysis and Infrastructure Protection directorate at DHS, and the Association of Public Television Stations (APTS) to develop an Integrated Public Alert and Warning System (IPAWS). CRS notes the project's current

[204] Sirius Comments at 3; XM Comments at 12; Echostar Reply Comments at 1-4.

[205] *See, e.g.*, LogicaCMG Comments at 2, 7-8.

[206] *See, e.g.*, Cellular Telecommunications & Internet Association (CTIA) Comments at 5, 8.

[207] *See* Verizon News Release, *Verizon FiOS TV Will Offer a New Customer Experience, Seidenberg Says* (April 18, 2005).

[208] Linda K. Moore and Shawn Reese, *Emergency Communications: The Emergency Alert System (EAS) and All-Hazard Warnings*, Congressional Research Service, The Library of Congress, CRS Report for Congress, at CRS-9-12 (updated Sept. 2, 2005), *available at* http://www.uscongress.com/section/pdf/CRSRL32527_9_11.pdf (last visited Sept. 21, 2005).

testing of digital media - including digital TV - to send emergency alert data over telephone, cable, wireless devices, broadcast media and other networks. What role should the Commission play with respect to these FEMA efforts?

72. *Performance Standards.* Will performance standards be necessary to ensure that the American public receives public alert and warning in an accurate and timely fashion? Should the Commission have a role in the development of such standards? Once developed, should the Commission have a role in the enforcement of such standards? Elements of proposed standards could be the length of time it takes to get a particular message, and the accuracy of the message. Will standards be necessary to ensure the accuracy and timeliness of messages delivered across multiple platforms? To ensure that standards are maintained, should the Commission adopt reporting obligations for providers of alert and warning? Alternatively, are current requirements, based on regular testing of equipment, sufficient? Are there other ways for the Commission to monitor implementation of its EAS rules without imposing reporting requirements? For example, could testing be monitored by third parties to ensure compliance? If the Commission adopts additional reporting requirements, what are the appropriate deadlines for such progress reports? Under what authority could the Commission take such actions?

73. *Coordination with State and Local Governments.* We recognize the historic and important role of states and localities in public safety matters, and the essential role that state and local governments play in delivering alert and warning. Recent experience also demonstrates the devastating impact that natural disasters can have on the health and safety of a substantial number of people in a particular state or region. For this reason, it may serve the public interest to give state governors the ability to utilize EAS facilities in order to disseminate potentially life-saving information under such circumstances. Accordingly, we seek comment on whether our rules should be amended to require EAS participants to transmit EAS messages issued by the governor(s) of the state(s) in which they provide service. We further ask whether, if such a requirement were adopted, we should also adopt an additional originator code for state governors in section 11.31(d) of our rules. We also seek comment on how we can best work with the states to help implement the EAS rules we adopt today as well as to develop the next generation of alert and warning systems. In particular, we note that there is a vital connection between state and local alert and warning and Federal efforts to mitigate disasters. In the *EAS NPRM*, we noted the importance of state and local EAS plans and sought comment on several issues related to these EAS plans, including whether periodic updating and review of these plans should be required and, if so, how often.[209] We now also seek comment on whether our rules should be revised to require that states notify the Commission of any changes in EAS participants' state EAS Local Area and/or EAS designation (PEP, LP1, LP2, SR, LR, etc.) within thirty days of such change. In the absence of any such change, should we require a yearly confirmation that all state EAS Local Area and EAS designations remain the same?

74. *Accessibility to Persons with Disabilities.* We also seek comment regarding how we may, consistent with the Order we adopt today, make EAS alerts more accessible to people with disabilities. The Commission is committed to ensuring that persons with disabilities have equal access to public warnings and are considered in emergency preparedness planning. In the United States, there are approximately 30.8 million adults with some level of hearing loss and approximately 19.1 million adults with vision trouble – that is 15% and 9.3% of the total U.S. adult population, respectively.[210] It is critical that we ensure that these large segments of our population have full access to EAS messages.

75. In the *EAS NPRM*, the Commission sought comment on whether there are disparities in or conflicts between the EAS rules and those contained in section 79.2 that should be reconciled or

[209] *EAS NPRM*, 19 FCC Rcd at 15784, para. 25.

[210] *Summary Health Statistics for U.S. Adults: National Health Interview Survey 2002*, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *available at* http://www.cdc.gov/nchs/fastats/disable.htm.

combined and the manner in which such disparities or conflicts could be resolved in subsequent rules.[211] Currently, our Part 11 rules require EAS participants to provide all EAS warnings that they transmit in both aural and visual formats.[212] The visual EAS message transmitted by television stations, cable systems and wireless cable systems must include the elements of the EAS header code, specifically, the originator, event, location and the valid time period of the EAS message.[213] In addition, an EAS attention signal must precede the emergency message.[214]

76. Section 79.2 of our rules requires video programming distributors[215] to make the audio portion of emergency information accessible to persons with hearing disabilities using closed captioning or other methods of visual presentation.[216] Video programming distributors must also ensure that

[211] *EAS NPRM*, 19 FCC Rcd at 15790, para. 38.

[212] 47 C.F.R. §§ 11.54(b)(5)-(6), 11.55(c)(4). *See also* 47 C.F.R. § 73.1250(h) ("...[W]hen an emergency operation is being conducted under a national, State or Local Area Emergency Alert System (EAS) plan, emergency information shall be transmitted both aurally and visually unless only the EAS codes are transmitted as specified in § 11.51(b) of this chapter."). If organizations using other communications systems or technologies choose to participate in national, state, or local EAS activations, they must comply with the Commission's EAS rules, including the rules requiring that EAS warnings be provided in both aural and visual formats. *See* 47 C.F.R. § 11.11(e).

[213] 47 C.F.R. § 11.51(d), (g)(3), (h)(3); *see also* 47 C.F.R. § 11.31(c) (providing the elements of the EAS header code). The Emergency Alert System Handbooks for television broadcasters and cable systems state that these entities must visually and aurally transmit header code data.

[214] 47 C.F.R. §§ 11.31(a), 11.51(a). The modulation levels for the audio Attention Signal must comply with the aural signal requirements in Section 76.605 of the Commission's rules. 47 C.F.R. § 11.51 (g)(1), (h)(1); *see generally* 47 C.F.R. § 76.605.

[215] *See* 47 C.F.R. § 79.1(a)(2) (defining "video programming distributors," as "[a]ny television broadcast station licensed by the Commission and any multichannel video programming distributor as defined in § 76.1000(e) of this chapter, and any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission"). *See also* 47 C.F.R. § 76.1000(e) (defining "multichannel video programming distributor" as "an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities").

[216] 47 C.F.R. § 79.2(b)(1)(i); *see also* 47 C.F.R. § 79.1(a)(4) (defining closed captioning as the "visual display of the audio portion of video programming"). Several proceedings have further clarified captioning and other methods of visual presentation, using examples including, but not limited to, open captioning, crawls, scrolls, maps, signs, charts, or handwritten information contained on a white board. *See Amendment of Part 73 of the Rules to Establish Requirements for Captioning of Emergency Messages on Television*, Report and Order, Docket No. 20659, 61 FCC 2d 18, paras. 9, 11, Appendix B (1976) (*1976 Order*) (visual presentations include, but are not limited to, slides containing manual methods such as hand printing or mechanical printing processes, or electronic captioning); *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Report and Order, MM Docket No. 95-176, 13 FCC Rcd 3272 (1997) (*Closed Captioning Report and Order*) (adopting closed captioning rules codified in section 79.1), *recon.*, 13 FCC Rcd 19973 (1998) (*Closed Captioning Reconsideration Order*); *Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Accessibility of Emergency Programming*, Second Report and Order, MM Docket No. 95-176, 15 FCC Rcd 6615 (2000) (*Closed Captioning Second Report and Order*) (adopting rule codified in section 79.2 requiring emergency information be made accessible to persons with hearing disabilities). *See also Waterman Broadcasting Corp. of Florida, Inc., Licensee of WBBH-TV, Fort Myers-Naples, FL, Montclair Communications, Inc., Licensee of WZVN-TV, Fort Myers-Naples, FL*, Notice of Apparent Liability for Forfeiture, DA 05-2258, para. 4 (rel. Aug. 9, 2005); *McGraw-Hill Broadcasting Company, Inc., Licensee of KGTV, San Diego, CA*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 3981, 3983, para. 6 (2005) (*McGraw-Hill NAL*).

emergency information provided in the video portion of a regularly scheduled newscast, or a newscast that interrupts regular programming, is accessible to persons with visual disabilities through aural description in the main audio, such as open video description.[217] Emergency information is defined as information about a current emergency that is intended to further the protection of life, health, safety, and property, *i.e.* critical details regarding the emergency and how to respond to the emergency.[218]

77. Many commenters to the *EAS NPRM* argued that one of the major shortcomings of EAS is the lack of the same specific information in the visual, text display of the EAS message as that present in the EAS audio feed generated by the source of the message.[219] SBE states that this discrepancy is because the visual portion of the EAS message is derived from the header code of the message, rather than from the audio feed.[220] We seek comment as to whether EAS television crawls lack specificity due to the "disconnect" between the generic information contained in the digital header codes and the information contained in the audio portion of the EAS message.

78. SBE argues that one solution to this problem would be the addition, by the EAS message originator, of textual information within the EAS message containing the same information as the audio message. We agree and encourage EAS message originators such as FEMA and state emergency operations centers to provide EAS messages in audio and visual format to make EAS messages fully accessible to individuals with hearing and visual disabilities. Video programming distributors could then provide detailed aural and text EAS messages merely by providing the EAS message in the format received.

79. Absent such action by EAS message originators, we seek comment on whether

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[217] 47 C.F.R. § 79.2(b)(1)(ii); *see also Implementation of Video Description of Video Programming*, Report and Order, MM Docket No. 99-339, 15 FCC Rcd 15230, 15250-51, para. 50 (2000) (*Video Description Report and Order*) (extending section 79.2 to include provision that emergency information must be made accessible to persons with visual disabilities and adopting video description rules), *modified by,* Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 1251 (2001), (modifying video description rules contained in section 79.3), *vacated in part and reversed in part by, Motion Picture Association of America v. FCC*, 309 F.3d 796, 798-99 (D.C. Cir. 2002) (holding that the Commission's video description rules significantly implicated program content beyond the Commission's statutory authority), *rehearing and rehearing in banc denied* (D.C. Cir. 2003). Although the video description rules contained in section 79.3 have been vacated, video programming distributors are still required, under section 79.2(b)(1), to make emergency information accessible to persons with visual disabilities. *See* 47 C.F.R. § 79.2(b)(1). Section 713 of the Act defines "video description" as "the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue." 47 U.S.C. § 613(g). Video programming distributors may use this definition as guidance in meeting the requirements of section 79.2(b)(1)(ii). *See* 47 C.F.R. § 79.2(b)(1)(ii). For example, if a map is displayed on the screen, the video programming distributor must provide an aural description of the geographic location encompassed by the map and any areas highlighted on the map in order to make the information accessible to persons with visual disabilities. In addition, emergency information provided in the video portion of programming that is not a regularly scheduled newscast, or a newscast that interrupts regular programming, such as a "crawl" or "scroll," must be accompanied by an aural tone to alert persons with vision disabilities that they should tune to another source, such as a radio, for more information. *See* 47 C.F.R. § 79.2(b)(1)(iii); *see also Video Description Report and Order*, 15 FCC Rcd at 15251, para. 51.

[218] Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to, the following: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather. *See* 47 C.F.R. §§ 73.1250(a), 79.2(a)(2).

[219] *See* New Hampshire State Emergency Communications Committee (NH SECC) Comments at 6; Ohio EMA Comments at 4; SBE Reply Comments at 1 (arguing that there is a great disconnect between the generic information displayed on the crawl and the information contained in the audio portion of the EAS message).

[220] *See* SBE Reply Comments at 1.

individuals with hearing and vision disabilities may be subject to inconsistent aural and visual information in EAS alerts. We also seek comment on whether we should revise our EAS rules to require all video programming distributors subject to the Commission's Part 11 rules to provide the same information in both the visual and aural versions of all EAS messages, instead of only the header code information that EAS participants now provide visually or the critical details of the emergency information as required by section 79.2.[221] Should parties subject to the Commission's EAS rules be required to make an audio EAS message accessible to those with hearing disabilities by using a transcription of the audio message through the use of closed captioning or other methods of visual presentation, such as open captioning, crawls, or scrolls, that appear on the screen?[222] SBE argues that in order to provide a visual message identical to the audio feed, providers would have to transcribe the feed accurately and in real time into a character generator, something for which very few television stations and cable companies have the resources.[223] We seek comment on SBE's assertions. Should parties subject to the Commission's EAS rules be required to provide an audio feed that duplicates any text portion of an EAS alert? To the extent that an EAS message contains other visual elements, should parties subject to the Commission's EAS rules be required to describe such visual portions? Will these obligations impose different technical or financial burdens on the various media that must comply with the Commission's EAS rules?[224] Parties should discuss in detail any relevant technical or financial issues.

80. We also seek comment on how any next-generation, digitally-based alert and warning system can be developed in a manner that assures that persons with disabilities will be given equal access to alert and warning as other Americans. Further, we seek comment on how we can incorporate the Commission's existing disability access rules into the development of a more comprehensive EAS? For example, the Commission's rules set forth operational and technical standards for telecommunications relay services (TRS), a nationwide system which permits persons with hearing and speech disabilities to have access to the telephone system. Can a digitally-based alert and warning system take advantage of this system? Further, we seek comment on whether the development of such a state-of-the-art alert and warning system would affect the obligations imposed by the Commission's rules that implement section 255 of the Act, which requires telecommunications manufacturers and service providers to make their products and services accessible to people with disabilities? To what extent can revisions in the Commission's closed captioning rules be made to enhance the dissemination of emergency information? Commenters should comment on these and other issues relevant to how can we take account of those with disabilities as we develop a next generation EAS. Are there any additional steps that the Commission can take to ensure that people with disabilities are considered during the design process of such a system? For example, should the Commission adopt requirements that may be factored into the design process and, if so, what type of requirements?

81. *Multilingual EAS Messages.* Sections 11.54(b)(7) and 11.55(c)(4) of the Commission's rules provide that EAS announcements may be made in the same language as the primary language of the

[221] Video programming distributors that are EAS participants include, but are not limited to, broadcast television stations, cable systems, wireless cable systems and, as addressed in this Order, digital cable systems, DTV broadcasters and DBS providers.

[222] Closed captions are visual text displays that are hidden in the video signal. Viewers can access closed captions through their remote control or on-screen menu or through a special decoder. *See* 47 C.F.R. § 79.1(a)(4) (defining closed captioning). By contrast, access to open captions is not controlled by the viewer. Open captions are an integral part of the television picture, like subtitles in a movie. *See Closed Captioning Second Report and Order*, 15 FCC Rcd at 6618, n.19 (describing open captions). Crawls refers to text that advances very slowly across the bottom or top of the screen. Scrolls are displayed text or graphics that move up and down the screen.

[223] *Id.*

[224] We note that, as of January 1, 2006, all video programming distributors will be required to close caption 100 percent of new programming, subject to certain exceptions. *See* 47 C.F.R. §§ 79.1(b)(1), (b)(3), (d)-(f); *see also* 47 U.S.C. § 613.

station.[225] In the *EAS NPRM*, the Commission sought comment on whether current methods of providing alerts and warnings to non-English speaking persons are adequate and, if not, what additional provisions are necessary and what costs would be associated with implementing such provisions.[226] On September 22, 2005, the Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council filed a Petition for Immediate Relief with the Commission proposing changes to the Commission's EAS rules to require stations to air EAS messages in other languages in addition to English.[227] We seek comment on the issues raised in the petition and, for this purpose, we incorporate the petition as well as the other pleadings filed in response to the petition into the record of this proceeding.[228] For example, we seek comment on how this proposal would be implemented. We also seek comment on any other proposals regarding how to best alert non-English speakers. Until we address these issues, we encourage that multilingual emergency information be provided in areas where a significant proportion of the population has its primary fluency in languages other than English.

V. PROCEDURAL MATTERS

A. *Ex Parte* Presentations

82. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[229] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[230] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

B. Comment Filing Procedures

83. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. **All filings related to this Order and the Further Notice of Proposed Rulemaking should refer to EB Docket No. 04-296.** Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.

    - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers

[225] 47 C.F.R. §§11.54(b)(7), 11.55(c)(4).

[226] *EAS NPRM*, 19 FCC Rcd at 15790, para. 40.

[227] Petition for Immediate Interim Relief filed by Independent Spanish Broadcasters Association, the Office of Communications of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council filed September 22, 2005.

[228] *See e.g.*, Comments in Response to Petition for Immediate Interim Relief, filed by National Association of Broadcasters on October 4, 2005; Reply Comments of Consumers Union filed October 20, 2005.

[229] 47 C.F.R. §§ 1.200 *et seq.*

[230] *See* 47 C.F.R. § 1.1206(b)(2).

should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

  Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

  - U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

C. Accessible Formats

84. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

D. Regulatory Flexibility Analysis

85. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. § 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The FRFA is set forth in Appendix D.

86. As required by the Regulatory Flexibility Act of 1980, *see* 5 U.S.C. § 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix E. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments filed in response to this Further Notice of Proposed Rulemaking as set forth in paragraph 83, and have a separate and distinct heading designating them as responses to the IRFA.

E. Paperwork Reduction Act Analysis

87. This First Report and Order contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new and modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4), we

previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees." In this present document, we have assessed the effects of expanding the reach of EAS to cover DTV, DAB, digital cable, DBS and SDARS providers, and find that this imposes minimal regulation on small entities to the extent consistent with our goal of advancing our public safety mission.

F. Congressional Review Act

88. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), *see* 5 U.S.C. § 801(a)(1)(A).

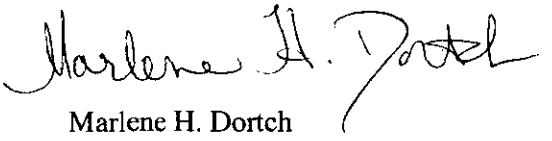
VI. ORDERING CLAUSES

89. Accordingly, IT IS ORDERED that pursuant to sections 1, 4(i), 4(o), 303(r), 403, 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (o), 303(r), 403, 554(g), and 606, the Report and Order in EB Docket No. 04-296 IS ADOPTED, and that Part 11 of the Commission's Rules, 47 C.F.R. Part 11, is amended as set forth in Appendix B. The Order shall become effective 30 days after publication in the Federal Register. The rules set forth in Appendix B shall become effective for digital television broadcasters, digital audio broadcasters, digital cable systems and SDARS licensees on December 31, 2006, and for DBS providers on May 31, 2007, except that new or modified information collection requirements contained in Appendix B will not become effective prior to OMB approval.

90. IT IS FURTHER ORDERED that pursuant to sections 1, 4(i), 4(o), 303(r), 403, 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (o), 303(r), 403, 554(g), and 606, the Further Notice of Proposed Rulemaking in EB Docket No. 04-296 IS ADOPTED.

91. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this First Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch
Secretary

APPENDIX A
LIST OF COMMENTERS

Comments in EB Docket No. 04-296

Commenters	Abbreviation
Abbott, Adrienne	Abbott
Alaska Broadcasters Association and the State Emergency Communications Committee	ABA/ASECC
Alert Systems, Inc.	Alert Systems
Alpena, MI, City of	Alpena
American Cable Association	ACA
American Foundation for the Blind	AFB
American Teleservices Association	ATA
Ann Arbor, MI, City of	Ann Arbor
Association of Public Television Stations	APTS
Auburn and Northborough, Massachusetts, Towns of	Auburn-Northborough
BellSouth Entertainment, LLC	BellSouth
Bekey, Ivan	Bekey
Brookstone, Melissa and Jennifer	Brookstone
Cadillac, MI, City of	Cadillac
California Broadcasters Association	CBA
Capitol Broadcasting Company, Inc.	CBC
Carlsbad, CA, City of	Carlsbad
Cellular Telecommunications & Internet Association	CTIA
Charleston County, SC	Charleston
Charter Communications, Inc.	Charter
Consumer Electronics Association	CEA
Contra Costa County Community Warning System	Contra Costa County
Cook, Katherine	Cook
Corr Wireless Communications, LLC	Corr
Cowan, Terry A.	Cowan
Cox Broadcasting, Inc.	Cox
Croghan, Bill	Croghan
Deeds, Douglas	Deeds
Developers – Sage Alerting Systems ENDEC, Gerald LeBow and Harold Price	Developers
Digital Alert Systems, LLC	DAS
Dodds, Betty J.	Dodds
Dubuque, Iowa, City of	Dubuque
"ec", Comments of	"ec"
Elk Grove Village	Elk Grove
Entergy Nuclear Northeast, Michael J. Slobodien	Entergy
Estlack, Larry A.	Estlack
FEMA, Director, Office of Nat'l Security Coordination	FEMA
Fontana, CA, City of	Fontana
Gehlhar, Mhairi	Gehlhar
Georgetown University	Georgetown
Global Marketing Solutions, Inc.	Global
Harris Corporation	Harris
Hearst-Argyle Television, Inc.	Hearst-Argyle

Hines, Kinsey	Hines
Hoffman Estates	Hoffman
Howard-Thurst, Paul	Howard-Thurst
Intergovernmental Advisory Committee (Jenny Hansen), FCC	IAC
Intrado, Inc.	Intrado
Iowa City, Iowa, City of	Iowa City
Jefferson Pilot Communications Company	Jefferson-Pilot
Kluttz, Andrew	Kluttz
Labanow, David J.	Labanow
Liberty Corporation	Liberty
LogicaCMG plc	LogicaCMG
Lowell, Massachusetts, City of	Lowell
Luna, Hector Eden	Luna
Maine State Emergency Communications Committee	Maine SECC
Marquette, MI, City of	Marquette
McDonough, Robert	McDonough
Midland Radio Corporation	Midland
Municipalities and Municipal Organizations	Municipalities
Named State Broadcasters Associations	Named SBA
National Association of Broadcasters	NAB
National Association of Broadcasters and Association for Maximum Service TV, Inc.	NAB/MSTV
National Association of Broadcasters/Florida Association of Broadcasters	NAB/FAB
National Association of State Chief Information Officers	NASCIO
National Cable & Telecommunications Association	NCTA
National Center for Missing & Exploited Children	NCMEC
New Hampshire SECC, Edward W. Brouder, Jr., Chairman,	NH SECC
Newell, Thomas A., Facilities Engineer	Newell
North Carolina Association of Broadcasters	NCAB
North Carolina State Emergency Communications Committee	NC SECC
Ohio Association of Broadcasters	OAS
Ohio Emergency Management Agency	Ohio EMA
Orange County Local Emergency Communications Committee	Orange County LECC
Oregon State Communications Commission	Oregon SCC
Osenkowsky, Thomas G.	Osenkowsky
Pappas Telecasting Companies	Pappas
Partnership for Public Warning	PPW
Primary Entry Point Advisory Committee, Inc.	PEPAC
Putkovich, Kenneth	Putkovich
RadioShack Corporation	RadioShack
Rau, Dan	Rau
Rehabilitation Engineering Research Center on Mobile Wireless Technologies	RERC Wireless
Rehabilitation Engineering Research Center on Telecommunications Access	RERC
Richards, Tristan, Chair, Maine SECC	Richards
Robbins, Bert	Robbins
Ruhwiedel, Henry	Ruhwiedel
Rural Cellular Association	RCA
Santa Clara County Emergency Managers Association	Santa Clara EMA
Satellite Broadcasting and Communications Association	SBCA
SatStream Systems Corp, Michael G. Lee	SatStream
Schacter, Janice	Schacter
Seven Ranges Radio Co., Inc.	Seven Ranges

Sheerin, Peter K.	Sheerin
Simar, Douglas S.	Simar
Sirius Satellite Radio, Inc.	Sirius
Society of Broadcast Engineers, Inc.	SBE
Southeastern Michigan Counties and Municipalities (Neil J. Lehto)	SE Michigan Counties
St. Tammany Parish	St. Tammany
Stewart, Dwight	Stewart
Stussy, D.	Stussy
SWN Communications, Inc.	SWN
Telecommunications for the Deaf, Inc. et. al.	TDI
Telecommunications Industry Association	TIA
TFT, Inc.	TFT
Timm, Gary E., Chair, Wisconsin SECC	Timm
Torrance, CA, City of	Torrance
Trilithic, Inc.	Trilithic
Verizon	Verizon
Walnut Creek, CA, City of	Walnut Creek
Ward, Dr. Peter L.	Dr. Ward
Wood, Mark	Wood
WTOP-AM, (WTOP-FM) and WXTR-AM	WTOP/WXTR
XM Radio Inc.	XM
Yount, Steven	Yount

Reply Commenters	**Abbreviation**
Alert Systems, Inc.	Alert Systems
American Cable Association	ACA
Ann Arbor, MI, City of	Ann Arbor
Cellular Emergency Alert Systems Association	CEASA
Cellular Telecommunications and Internet Association	CTIA
Consumer Electronics Association	CEA
EchoStar Satellite, LLC	EchoStar
LogicaCMG plc	LogicaCMG
Mesa, Arizona, City of	Mesa
Municipalities and Municipal Organizations	Municipalities
Named State Broadcasters Associations	Named SBA
National Cable & Telecommunications Association	NCTA
Nortel	Nortel
Putkovich, Kenneth	Putkovich
RadioShack Corporation	RadioShack
Ruhwiedel, Henry	Ruhwiedel
Satellite Broadcasting and Communications Association	SBCA
Society of Broadcast Engineers, Inc.	SBE
Southeastern Michigan Counties & Municipalities	SE Michigan Counties
TFT, Inc.	TFT
T-Mobile USA, Inc.	T-Mobile
Trilithic, Inc.	Trilithic
XM Radio Inc.	XM

Ex Parte Commenters	Abbreviation
Advanced Television Systems	ATS
Alert Systems, Inc.	Alert Systems
American Cable Association	ACA
Cellular Telecommunications & Internet Association	CTIA
Consumer Electronics Association	CEA
DIRECTV, Inc.	DIRECTV
FCC, Office of Homeland Security, regarding Digital Television	DTV ex parte
FCC, Office of Homeland Security, regarding DTH Satellite Services	Satellite DTH ex parte
Global Marketing Solutions, Inc.	Global
Independent Spanish Broadcasters Association, Office of Communications of United Church of Christ, Inc., and Minority Media and Telecommunications Council	MMTC
INTELSAT	INTELSAT
LogicaCMG Global Telecoms	LogicaCMG
National Association of Broadcasters	NAB
National Association of Telecommunications Officers and Advisors	NATOA
Nextel Communications, Inc.	Nextel
PanAmSat	PanAmSat
RadioShack Corporation	RadioShack
Ruhwiedel, Henry	Ruhwiedel
Rural Cellular Association	RCA
SES American	SES American
Sirius Satellite Radio, Inc.	Sirius
Ward, Dr. Peter L.	Dr. Ward
Wiley Rein & Fielding, LLP	Wiley Rein
XM Radio Inc.	XM

APPENDIX B

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 C.F.R. Part 11 as follows:

PART 11 – EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for Part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g) and 606.

2. Revise § 11.1 to read as follows:

§ 11.1 Purpose.

This part contains rules and regulations providing for an Emergency Alert System (EAS). The EAS provides the President with the capability to provide immediate communications and information to the general public at the National, State and Local Area levels during periods of national emergency. The rules in this part describe the required technical standards and operational procedures of the EAS for analog AM, FM, and TV broadcast stations, digital broadcast stations, analog cable systems, digital cable systems, wireless cable systems, Direct Broadcast Satellite (DBS) services, Satellite Digital Audio Radio Service (SDARS), and other participating entities. The EAS may be used to provide the heads of State and local government, or their designated representatives, with a means of emergency communication with the public in their State or Local Area.

3. Amend § 11.11 by revising paragraphs (a), (b) and (e) to read as follows:

§ 11.11 The Emergency Alert System (EAS).

(a) The EAS is composed of analog radio broadcast stations including AM, FM, and Low-power FM (LPFM) stations; digital audio broadcasting (DAB) stations, including digital AM, FM, and Low-power FM stations; analog television broadcast stations including Class A television (CA) and Low-power TV (LPTV) stations; digital television (DTV) broadcast stations, including digital CA and digital LPTV stations; analog cable systems; digital cable systems which are defined for purposes of

this Part only as the portion of a cable system that delivers channels in digital format to subscribers at the input of a Unidirectional Digital Cable Product or other navigation device; wireless cable systems which may consist of Broadband Radio Service (BRS), or Educational Broadband Service (EBS) stations; DBS services, as defined in 47 C.F.R. § 25.701(a) (including certain Ku-band Fixed-Satellite Service Direct to Home providers); SDARS, as defined in 47 C.F.R. § 25.201; participating broadcast networks, cable networks and program suppliers; and other entities and industries operating on an organized basis during emergencies at the National, State and local levels. These entities are referred to collectively as EAS Participants in this Part, and are subject to this Part, except as otherwise provided herein. These rules in this Part are effective on December 31, 2006 for DTV, DAB, digital cable and SDARS providers, and on May 31, 2007 for DBS providers. At a minimum EAS Participants must use a common EAS protocol, as defined in §11.31, to send and receive emergency alerts in accordance with the effective dates listed above and in the following tables:

Analog and Digital Broadcast Stations

EAS Equipment Requirement	AM & FM	Digital AM & FM	TV	DTV	FM Class D\1\	LPTV \2\	LPFM \3\	Class A TV\4\
Two-tone encoder \5\ \6\	Y	Y 12/31/06	Y	Y 12/31/06	N	N	N	Y
EAS decoder	Y 1/1/97	Y 12/31/06	Y 1/1/97	Y 12/31/06	Y 1/1/97	Y 1/1/97	Y	Y
EAS encoder	Y 1/1/97	Y 12/31/06	Y 1/1/97	Y 12/31/06	N	N	N	Y
Audio message	Y 1/1/97	Y 12/31/06	Y 1/1/97	Y 12/31/06	Y 1/1/97	Y 1/1/97	Y	Y
Video message	N/A	N/A	Y 1/1/97	Y 12/31/06	N/A	Y 1/1/97	N/A	Y

\1\ Effective December 31, 2006, digital FM Class D stations have the same requirements.
\2\ LPTV stations that operate as television broadcast translator stations are exempt from the requirement to have EAS equipment. Effective December 31, 2006, digital LPTV stations have the same requirements.
\3\ LPFM stations must install a decoder within one year after the FCC publishes in the Federal Register a public notice indicating that at least one decoder has been certified by the FCC. Effective December 31, 2006, digital LPFM stations have the same requirements.
\4\ Effective December 31, 2006, digital Class A TV stations have the same requirements.
\5\Effective July 1, 1995, the two-tone signal must be 8-25 seconds.
\6\ Effective January 1, 1998, the two-tone signal may only be used to provide audio alerts to audiences before EAS emergency messages and the required monthly tests.

Analog Cable Systems

[A. Analog cable systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels_including the required testing_by October 1, 2002, or comply with the following EAS requirements. All other analog cable systems must comply with B.]

B. EAS Equipment Requirement	System size and effective dates		
	>=10,000 subscribers	>=5,000 but < 10,000 subscribers	<5,000 subscribers
Two-tone signal from storage device \1\.	Y 12/31/98	Y 10/1/02	Y 10/1/02
EAS decoder \3\.....	Y 12/31/98	Y 10/1/02	Y 10/1/02
EAS encoder \2\.....	Y 12/31/98	Y 10/1/02	Y 10/1/02
Audio and Video EAS Message on all channels.	Y 12/31/98	Y 10/1/02	N
Video interrupt and audio alert message on all channels,\3\ Audio and Video EAS message on at least one channel.	N	N	Y 10/1/02

\1\ Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8-25 seconds in duration.

\2\ Analog cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.

\3\ The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.

Note: Programmed channels do not include channels used for the transmission of data such as interactive games.

Wireless Cable Systems (BRS/EBS STATIONS)

[A. Wireless cable systems serving fewer than 5,000 subscribers from a single transmission site must either provide the National level EAS message on all programmed channels_including the required testing_by October 1, 2002, or comply with the following EAS requirements. All other wireless cable systems must comply with B.]

B. EAS Equipment Requirement	System size and effective dates: >= 5,000 subscribers	System size and effective dates: < 5,000 subscribers
EAS decoder.....	Y 10/1/02.....	Y 10/1/02
EAS encoder 1 2.....	Y 10/1/02.....	Y 10/1/02
Audio and Video EAS Message on all channels \3\.	Y 10/1/02.....	N
Video interrupt and audio alert message on all channels; \4\ Audio and Video EAS message on at least one channel.	N.....	Y 10/1/02

\1\ The two-tone signal is used only to provide an audio alert to an audience prior to an EAS emergency message or to the Required Monthly Test (RMT) under § 11.61(a)(1). The two-tone signal must be 8-25 seconds in duration.

\2\ Wireless cable systems serving < 5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.

\3\ All wireless cable systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages.

\4\ The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.

Note: Programmed channels do not include channels used for the transmission of data services such as Internet.

Digital Cable Systems

[A. Digital cable systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels_including the required testing_by December 31, 2006, or comply with the following EAS requirements. All other digital cable systems must comply with B.]

	System size and effective dates	
B. EAS Equipment Requirement	>=5,000 subscribers	<5,000 subscribers
Two-tone signal from storage device \1\.	Y 12/31/06	Y 12/31/06
EAS decoder \3\.....	Y 12/31/06	Y 12/31/06
EAS encoder \2\.....	Y 12/31/06	Y 12/31/06
Audio and Video EAS Message on all channels \4\	Y 12/31/06	N
Video interrupt and audio alert message on all channels,\3\ Audio and Video EAS message on at least one channel.	N	Y 12/31/06

\1\ Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8-25 seconds in duration.

\2\ Digital cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.

\3\ The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.

\4\ All digital cable systems may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages

Note: Programmed channels do not include channels used for the transmission of data such as interactive games or the transmission of data services such as Internet.

SDARS and DBS

EAS Equipment Requirement	SDARS	DBS
Two-tone signal \1\	Y 12/31/06	Y 5/31/07
EAS decoder.....	Y 12/31/06	Y 5/31/07
EAS encoder.....	Y 12/31/06	Y 5/31/07
Audio message on all channels \2\	Y 12/31/06	Y 5/31/07
Video message on all channels \2\	N/A	Y 5/31/07

\1\ Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8-25 seconds in duration.

\2\ All SDARS and DBS providers may comply with this requirement by providing a means to switch all programmed channels to a predesignated channel that carries the required audio and video EAS messages or by any other method that ensures that viewers of all channels receive the EAS message.

(b) Analog class D non-commercial educational FM stations as defined in § 73.506, digital class D non-commercial educational FM stations, analog LPFM stations as defined in §§ 73.811 and 73.853, digital LPFM stations, analog LPTV stations as defined in § 74.701(f), and digital LPTV stations as defined in § 74.701(k) are not required to comply with § 11.32. Analog and digital LPTV stations that operate as television broadcast translator stations, as defined in § 74.701(b) of this chapter, are not required to comply with the requirements of this part. FM broadcast booster stations as defined in § 74.1201(f) of this chapter and FM translator stations as defined in § 74.1201(a) of this chapter which entirely rebroadcast the programming of other local FM broadcast stations are not required to comply with the requirements of this part. International broadcast stations as defined in § 73.701 of this chapter are not required to comply with the requirements of this part. Analog and digital broadcast stations that operate as satellites or repeaters of a hub station (or common studio or control point if there is no hub station) and rebroadcast 100% of the programming of the hub station (or common studio or control point) may satisfy the requirements of this part through the use of a single set of EAS equipment at the hub station (or common studio or control point) which complies with §§ 11.32 and 11.33.

* * * * *

(e) Organizations using other communications systems or technologies such as low earth orbit satellite systems, paging, computer networks, etc. may join the EAS on a voluntary basis by contacting the FCC. Organizations that choose to voluntarily participate must comply with the requirements of this part.

4. Revise § 11.13 to read as follows:

§ 11.13 Emergency Action Notification (EAN) and Emergency Action Termination (EAT).

(a) The Emergency Action Notification (EAN) is the notice to all EAS Participants and to the general public that the EAS has been activated for a national emergency.

(b) The Emergency Action Termination (EAT) is the notice to all EAS Participants and to the general public that the EAN has terminated.

5. Revise § 11.15 to read as follows:

§ 11.15 EAS Operating Handbook.

The EAS Operating Handbook states in summary form the actions to be taken by personnel at EAS Participant facilities upon receipt of an EAN, an EAT, tests, or State and Local Area alerts. It is issued by the FCC and contains instructions for the above situations. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions.

6. Revise § 11.19 to read as follows:

§ 11.19 EAS Non-participating National Authorization Letter.

This authorization letter is issued by the FCC to EAS Participants that have elected not to participate in the national level EAS. It states that the EAS Participant has agreed to go off the air or discontinue programming on all channels during a national level EAS message. For licensees this authorization will remain in effect through the period of the initial license and subsequent renewals from the time of issuance unless returned by the holder or suspended, modified, or withdrawn by the Commission.

7. Revise § 11.21 introductory text and paragraph (a) to read as follows:

§ 11.21 State and Local Area Plans and FCC Mapbook.

EAS plans contain guidelines which must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The plans include the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP and SR). State and local plans contain unique methods of EAS message distribution such as the use of the Radio Broadcast Data System (RBDS). The plans must be reviewed and approved by the Director, Office of Homeland Security, Enforcement Bureau, prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation.

(a) The State plan contains procedures for State emergency management and other State officials, the NWS, and EAS Participants' personnel to transmit emergency information to the public during a State emergency using the EAS.

* * * * *

8. Amend § 11.31 by revising the format code for LLLLLLLL in paragraph (c), revising paragraph (d), and revising the footnotes in paragraphs (e) and (f) to read as follows:

§ 11.31 EAS protocol.

* * * * *

(c) * * *

LLLLLLLL—This is the identification of the EAS Participant, NWS office, etc., transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.

* * * * *

(d) The only originator codes are:

Originator	ORG Code
EAS Participant	EAS
Civil authorities	CIV
National Weather Service	WXR
Primary Entry Point System	PEP

(e) * * *

\1\ Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these event codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these event codes. EAS Participants that install or

replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these event codes.

(f) * * *

\1\ Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003, must be capable of receiving and transmitting these marine area location codes. EAS Participants that install or replace their EAS equipment after February 1, 2004, must install equipment that is capable of receiving and transmitting these location codes.

9. Amend § 11.33 by revising paragraphs (a)(4) and (b) introductory text to read as follows:

§ 11.33 EAS Decoder.

(a) * * *

(4) Display and logging. A visual message shall be developed from any valid header codes for tests and national activations and any preselected header codes received. The message shall include the Originator, Event, Location, the valid time period of the message and the local time the message was transmitted. The message shall be in the primary language of the EAS Participant and be fully displayed on the decoder and readable in normal light and darkness. All existing and new models of EAS decoders manufactured after August 1, 2003 must provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events. Effective May 16, 2002, analog radio and television broadcast stations, analog cable systems and wireless cable systems may upgrade their decoders on an optional basis to include a selective display and logging capability for EAS messages containing header codes for state and local events. EAS Participants that install or replace their decoders after February 1, 2004 must install decoders that provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events.